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7 Attorneys for Defendants
JOSEPH E. BARATTA AND TBIG FINANCIAL
8 SERVICES, INC.

9
10 UNITED STATES DISTRICT COURT
11
12 NORTHERN DISTRICT OF CALIFORNIA
13
14 SAN JOSE DIVISION

15 VIOLETTA ETTARE,

16 Plaintiff,

17 v.

18 JOSEPH E. BARATTA, an individual, TBIG
19 FINANCIAL SERVICES, INC., form of
20 business unknown, WACHOVIA
SECURITIES, LLC, a Delaware Limited
21 Liability Company, MARK WIELAND, and
individual, and DOES 1-25,

22 Defendants.
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Case No. C-07-04429-JW

DECLARATION OF JOSEPH
BARATTA IN SUPPORT OF
DEFENDANTS' MOTION TO
COMPEL ARBITRATION AND
STAY PROCEEDINGS

Date: May 5, 2008
Time: 9:00 A.M.
Judge: Hon. James Ware

Trial Date: TBD

1 I, JOSEPH E. BARATTA, declare as follows:

2
3 1. I am a citizen of the State of Nevada, resident at 756 Lakeshore Boulevard,
4 Incline Village, Nevada. Except where otherwise indicated, I have personal knowledge of
5 the facts stated in this declaration, and as to any facts of which I lack personal knowledge I
6 am informed and believe they are true. If called upon as a witness I could and would testify
7 to the facts stated herein.

8 2. TBIG Financial Services, Inc. ("TBIG") is a corporation incorporated under
9 the laws of the State of Nevada, having its principal place of business at 756 Lakeshore
10 Boulevard, Incline Village, Nevada. I am a professional money manager and the sole officer
11 and director of TBIG.

12 3. I have known Plaintiff Dr. Violetta Ettare for approximately fifteen years.
13 Dr. Ettare has been a close friend of my sister-in-law for approximately twenty years.

14 4. In 2001, Dr. Ettare's husband died and she informed me that that she was
15 the beneficiary of a one million dollar life insurance policy. She asked me to manage her
16 account. I was not taking new clients in 2001, but in consideration for my friendship with
17 Dr. Ettare, I agreed.

18 5. In order to establish an account management relationship with me, Dr.
19 Ettare opened a brokerage account at First Union Securities (the "Account"), which later
20 came to be held at Wachovia Securities, and deposited \$900,000.

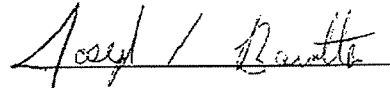
21 6. Dr. Ettare gave TBIG and me authorization to act as her agents in
22 connection with the Account, including power to buy and sell securities, and manage the
23 investments in her Account.

24 7. In or about November 2001, I signed a Third-Party Trading Authorization
25 Form from First Union Securities. A true and correct copy of this Trading Authorization
26 with my signature is attached hereto as Exhibit A.

27 8. Starting in 2001, and throughout March 2007, TBIG and I acted as Dr.
28 Ettare's agents in connection with her Account, purchasing and selling securities in

1 accordance with Dr. Ettare's objectives and our agreed investment strategy.

2
3 I declare under penalty of perjury under the laws of the United States that the foregoing
4 is true and correct, and that this Declaration was executed in Incline Village, Nevada on
5 March 5, 2008.

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7 JOSEPH E. BARATTA
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13 HOWARD
14 RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation
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